

आयकर अपीलिय अधिकरण, पुणे न्यायपीठ “एक-सदस्य मामला” पुणे में  
**IN THE INCOME TAX APPELLATE TRIBUNAL  
PUNE BENCH “SMC”, PUNE**

श्री डी. करुणाकरा राव, लेखा सदस्य के समक्ष  
**BEFORE SHRI D. KARUNAKARA RAO, AM**

आयकर अपील सं. / ITA No.1442/PUN/2018  
निर्धारण वर्ष / Assessment Year : 2008-09

Chandrashekhar P. Gandhi,  
Jyotirling Traders, 2424/A,  
Khari Corner, Kolhapur.

PAN : AAUPG6165A

.... अपीलार्थी/Appellant

Vs.

ITO, Ward-1(1),  
Kolhapur.

.... प्रत्यर्थी / Respondent

अपीलार्थी की ओर से / Appellant by : Shri Nikhil Pathak  
प्रत्यर्थी की ओर से / Respondent by : Shri Vishwas Mundhe

सुनवाई की तारीख / <b>Date of Hearing : 08.08.2019</b>	घोषणा की तारीख / <b>Date of Pronouncement: 27.08.2019</b>
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**आदेश / ORDER**

**PER D. KARUNAKARA RAO, AM :**

This appeal is filed by the assessee against the order of CIT(A)-1,  
Kolhapur dated 02.07.2018 for the Assessment Year 2008-09.

2. The grounds raised by the assessee are as under :-

- “1. On the facts and in the circumstances of the case and in law the Ld.CIT (A) is not justified in confirming addition of Rs.4,00,000/- made u/s 68 of the Act when the appellant has explained the source of the same.
2. On the facts and in the circumstances of the case and in law the Ld.CIT (A) is not justified in restricting sales consideration for capital gain purpose at Rs.6,00,000/- instead of Rs.10,00,000/-.
3. On the facts and in the circumstances of the case and in law the Ld.CIT (A) failed to appreciate that the appellant has correctly disclosed Rs.10,00,000/- as sales consideration which is mentioned in the agreement to sell.

4. *The appellant craves, to consider each of the above grounds of appeal without prejudice to each other and craves leave to add, alter, delete or modify all or any of the above grounds of appeal.  
The appellant prays that the addition sustained may please be deleted.”*

3. Before me, at the outset, ld. Counsel for the assessee brought to our notice that this is a case where there is cash deposit of Rs.10,00,000/- in the bank account of the assessee and the Assessing Officer made addition of Rs.4,00,000/- as per the discussion given in para 7.2 of his order. The case of the Assessing Officer is that out of the said Rs.10,00,000/-, Rs.6,00,000/- stands accounted by the cash received as per the registered sale deed drawn in connection with a sale of the property. The Assessing Officer invoked the provisions of section 68 of the Act in respect of the balance of Rs.4,00,000/-. The assessee submitted before the lower authorities that the assessee received total cash of Rs.10,00,000/- on sale of land and the entire amount was offered to tax and not merely Rs.6,00,000/- as shown in the registered sale deed. Rs.10,00,000/- was not shown in the said sale deed due to fair market value figures as per the Stamp Valuation Authorities. However, the said explanation of the assessee was rejected and the addition was made by the Assessing Officer was confirmed by the CIT(A).

4. Aggrieved with the same, the assessee filed the present appeal before me with the above extracted grounds.

5. On hearing both the sides on the issue of addition of Rs.4,00,000/-, I find there is no dispute on the facts relating to the depositing of

Rs.10,00,000/- in August 2007 (24.08.2007) and December 2007 (29.12.2007) (pages 1 to 3 of the Paper Book). The sale of agreement is dated 21.08.2007 confirms the schedule of payment *qua* the dates of payments and dates of cheques. Page 15 of the Paper Book (registered Sale Deed) reflects only the said sum of Rs.6,00,000/-. The claim of offer of entire amount of Rs.10,00,000/- for the capital gains is also undisputed (page 37 of the Paper Book). The contents of para 4 of the assessee's statement dated 20.12.2010 made before the Income Tax Officer, Kolhapur are relevant in this regard and the same are extracted as under :-

*[4] Regarding Long Term Capital Gains on sale of land :  
The assessee during A.Y. 96-97 purchased Land @ Uchagaon B.No.326/3/1Rs.340000. During the year the assessee sold his Uchagaon land for Rs.10,00,000/- the purchase price of which is Rs.340000/-. The possession of the same was given on 27/12/2007. Thus there is profit of Rs.660000/- before indexation. On indexation the long term capital gain are worked out as under :-*

*Adjusted Cost Index;                       $\frac{Rs.340000 \times 551}{281} =$                       Rs.666690*

<i>Sale Proceeds</i>	<i>Rs.</i>	<i>1000000</i>
<i>Less: Indexed Cost</i>		<i><u>666690</u></i>
<i>Long term capital gains offered</i>		<i><u>333310</u></i>
<i>Voluntarily for taxation.</i>		

*Under the impression that this land was beyond 8 kms from corporation limit the assessee did not work out capital gain in the return of income filed.*

*To conclude, the assessee has to voluntarily offer the following amounts for taxation :-*

<i>Difference in ACC A/c as per reconciliation given</i>	<i>15629.00</i>
<i>Interest Amount to be disallowed u/s. 14-A</i>	<i>43414.00</i>
<i>Long term capital gain on sale of land</i>	<i>333310.00</i>

*With this, you are kindly requested to conclude the case and oblige.*

*Thanking you,*

*Yours faithfully,  
Sd/-  
(for assessee)"*

6. Considering the above, I am of the opinion that the assessee received entire sum of Rs.10,00,000/- and the same was taxed too. Therefore,

Assessing Officer's claim of taxing the sum of Rs.6,00,000/- out of Rs.10,00,000/- is not proper. In my considered view, the source for entire deposit of Rs.10,00,000/- exists in the sale proceeds of the land. Therefore, I am of the opinion that the order of the CIT(A) is required to be set-aside and the grounds raised by the assessee should be allowed. Accordingly, the relevant grounds raised by the assessee are allowed.

7. In the result, the appeal of the assessee is allowed.

Order pronounced on this 27<sup>th</sup> day of August, 2019.

**Sd/-**  
**(D. KARUNAKARA RAO)**  
**लेखा सदस्य / ACCOUNTANT MEMBER**

पुणे / Pune; दिनांक Dated : 27<sup>th</sup> August, 2019.  
*Sujeet*

**आदेश की प्रतिलिपि अग्रेषित/Copy of the Order is forwarded to :**

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent;
3. The CIT(A)-1, Kolhapur;
4. The Pr. CIT-1, Kolhapur;
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, पुणे "एक-सदस्य मामला" / DR 'SMC', ITAT, Pune;
6. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//

आदेशानुसार/ BY ORDER,

Senior Private Secretary  
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune